REMARKS

Reconsideration of the present application in view of the amendments and following remarks is respectfully requested. Claims 19-24 have been added. Twenty-four claims are pending in the application: Claims 1 through 24.

Rejection Under 35 U.S.C. §103

Claims 1-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,161,132 (*Roberts et al.*) in view of U.S. Patent No. 6,535,909 (*Rust*).

Previously Presented Claims 1-18

Roberts et al. disclose a system for simultaneous playback of content stored in memory. More specifically, *Roberts et. al.* discuss a procedure for playing the same CD on multiple client machines simultaneously. The host machine can send commands to the client controlling various functions of the client's CD player. The host can also receive client input corresponding with various buttons on the CD player. Additionally, users can enter a chat room and discuss a CD while one of the tracks is playing.

Rust et al. disclose a method providing for a collaborative web browsing session to take place over a network. The presenter on a first computer can direct the audio and visual components of a browser on one or more second computers. Additionally, a user can access the host computer via a network and request to view the archived session. The recorded session replays the events of the live session in real time such that the

playback experience contains the same audio and visual events that took place when the session was originally being recorded.

It is stated on page 2 and 3 of the office action that *Roberts et al.* does not disclose storing content and timing information transmitted during the simultaneous playback of the event at the host computer, and allowing the content and timing information to be downloaded utilizing the network for playback of said event and said downloaded content and timing information after the simultaneous playback. It is further stated on page 3 of the office action that *Rust* discloses "storing content and timing information transmitted during the simultaneous playback of the event at the host computer; and allowing the content and timing information to be downloaded utilizing the network for playback of said event and said downloaded content and timing information after the simultaneous playback," such as is claimed by Applicants.

Rust et. al. provide a system for recording a collaborative web browsing session. The system provides for notifying the control site computer to begin recording the session, sending the session data to the control site computer in audio and visual data format, storing the audio and visual data on the control site computer, notifying the control site computer to stop recording the session, and merging the audio and visual data together on the control site computer (See *Rust* Column 3, lines 20-26). In a preferred embodiment, the data merged together into one playback file is made available on the control site computer for later viewing (See *Rust* Column 3, lines 26-30).

FIG. 4 of *Rust* is a flowchart depicting an example of a merging process that can be used by the Control Server 140 to integrate the audio and visual data elements that comprise the

recorded collaborative Web browsing session 100 (See *Rust* Column 8, lines 26-30). The initial step for merging the audio and visual data elements is the opening and reading of the event log. For example, in step 400, the Control Server 140 opens the event log file and subsequently in step 410, the Control Server 140 retrieves an entry from the same event log (See *Rust* Column 8, lines 31-36).

When the start record 315 event has been encountered by the Control Server 140 and the initial state has been established, the Control Server 140 creates the archive file (See *Rust* Column 8, lines 55-57). For example, as shown in step 425, the Control Server 140 creates a playback file to contain all of the audio and visual data events comprising the collaborative Web browsing session 100 (See *Rust* Column 8, lines 57-61). Alternatively, audio events and log entries of the visual data events can be stored in a first archive file while the visual data corresponding to the log entries is stored in a second, corresponding archive file (See *Rust* Column 8, lines 61-64).

Rust further describes how a playback client is able to view the archive file. In one embodiment, the entire merging process takes place each time a session is requested for playback by the Playback Client 150 (See *Rust* Column 10, lines 52-55). For example, the data comprising the session is stored in multiple files, one for audio data, one for visual data, and one for the chronological log of the events comprising the session (See *Rust* Column 10, lines 55-57). Each time that particular session is requested for playback, the Control Server 140 reads in the audio data file, the visual data file and the corresponding events from the log file (See *Rust* Column 10, lines 57-60). As the Control Server 140 chronologically merges the

audio, visual, and other events together, those events are sent to the Playback Client 150 (See *Rust* Column 10, lines 60-62). Thus, in this example, each time the session is replayed, the merging process is repeated (See *Rust* Column 10, lines 62-64).

Therefore, in accordance with *Rust* the archive file is merged by the Control Server 140 and then presented to the Playback Client 150 in one of two approaches. The first is to merge all the events into an archive file and make the archive file available for playback. The second is to store the events separately at the Control Server 140 and merge the events together each time a session is requested utilizing the event log at the Control Server.

Thus, the event log is never made available to the Playback Client, as in either approach, all of the events are merged into the archive file prior to the Playback Client downloading the archive file.

In contrast, Applicants' claims specifically recite "allowing the content and timing information to be downloaded utilizing the network for playback of said event and said downloaded content and timing information after the simultaneous playback." As described above, the event log of *Rust* (i.e., timing information) is never downloaded to the Playback Client because the all of the content from the collaborative web browsing session is all already stored in the archive file, thus there is no need for the timing information to be downloaded to the Playback Client.

Applicants are synchronizing an event that is stored at the client in memory on the client apparatus, with the content stored at the host computer. Thus, the timing information is

downloaded to the client device in order to playback both the event and the downloaded content.

M.P.E.P Section 2143.03 states that "[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

As described above, *Rust* does not disclose "allowing the content and timing information to be downloaded utilizing the network for playback of said event and said downloaded content and timing information after the simultaneous playback," such as is claimed by Applicants. Furthermore, *Roberts et al.* and *Rust et al.* do not, individually or in combination, teach or suggest such claim limitation. Thus, Applicants respectfully submit the rejection is overcome and request a timely notice of allowance be issued.

Newly Presented Claims 19-24

Independent claim 19 is identical to independent claim 1 with the addition of the language "wherein the timing information synchronizes the playback of said event and the downloaded content." Thus, independent claim 19 only further distinguishes Applicants invention from the art cited by the Examiner. For at least the reasons stated above with reference to claims 1-18, claim 19 is in condition for allowance. Therefore, the addition of independent claim 19 does not raise any new issues that would require further consideration and a new search of the prior art as independent claim 1 is allowable over the cited art.

Additionally, newly submitted independent claim 19 recites "allowing the content and timing information to be downloaded utilizing the network for playback of said event and

said downloaded content and timing information after the simultaneous playback; wherein the timing information synchronizes the playback of said event and the downloaded content."

The claim language "wherein the timing information synchronizes the playback of said event and the downloaded content," has been included to clarify that the timing information is synchronizing said event and the downloaded content. This clearly further distinguishes between the event log created in *Rust*. As described above, *Rust* stores a record all of the audio and visual events at the Control Server 140 and uses an event log to create an archive file. In contrast, Applicants' claims recite storing "allowing the content and timing information to be downloaded utilizing the network for playback of said event and said downloaded content and timing information after the simultaneous playback; wherein the timing information synchronizes the playback of said event and the downloaded content." Thus, the timing information is synchronizing the event with the downloaded content.

Applicants' Prior Invention

Applicants note that *Rust* was not published more than one year before the filing date of the present application, thus, a *Rust* can not be used as a proper reference under 35 U.S.C. 102(b)/103(a).

In order to remove the *Rust* reference cited for the rejection of claims 1-18 under 35 U.S.C. 103 Applicants submit evidence establishing a reduction to practice of the claimed invention prior to the filing date of *Rust*, i.e., prior to November 18, 1999; thus, overcoming a rejection under 35 U.S.C.

103(a) by establishing the invention of Applicants' claimed invention prior to the filing date of the *Rust* patent. This evidence is submitted in the form of the following declaration under 37 C.F.R. 1.131: (a) the Declaration of Todd R. Collart (hereinafter referred to as the "Collart declaration"). Per MPEP 715.07, the dates have been blocked out of the exhibits attached to the Collart declaration; however, all dates are prior to November 18, 1999.[1]

When any claim of an application is rejected, the inventor of the subject matter of the rejected claim may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the filing date of the reference on which the rejection is based.[2] The declaration under 37 C.F.R. 1.131 must establish possession of either the whole invention claimed or something falling within the claim, in the sense that the claim as a whole reads on it.[3] Proof of a reduction to practice of the invention prior to the filing date of the reference is sufficient to overcome a rejection based upon the reference.[4] Generally, *proof of an actual reduction to practice requires a showing that the apparatus actually existed and worked for its intended purpose.*[5]

As established in the Collart declaration, an online synchronization system was used prior to November 18, 1999 and the contents were made available on a web-site for playback at a later date prior to November 18, 1999.[6] Thus, the online event and storing of content for subsequent playback as described in

1 Collart Declaration, paragraph 4
2 37 CFR § 1.131(a) and MPEP 715
3 *In re Tanczyn*, 347 F.2d 830, 146 USPQ 298 (CCPA 1965) and MPEP 715.02
4 37 CFR 1.131(b) and MPEP 715.07
5 MPEP 715.07
6 Collart Declaration Paragraphs 5 and 6, Exhibit A and Exhibit B

Exhibits A and B describe a device falling within claims 1, 7, 13 and 19, i.e., claims 1, 7, 13 and 19 read upon such described device.

Therefore, given the Collart declaration and Exhibits A and B, it is respectfully submitted that a device covered under claims 1, 7, 13 and 19 existed prior to November 18, 1999 and that it would *work for its intended purpose.*[7]

Thus, as required under MPEP 715.07, it is submitted that an online synchronization system that includes all of the limitations specified in claims 1, 7, 13 and 19 *existed prior to November 18, 1999* and that the inventor recognized that the laser device *worked for its intended purpose prior to November 18, 1999.*

Thus, Applicants respectfully submit that a rejection of claims 1-18 under 35 U.S.C. § 103(a) is overcome and additionally that newly submitted claims 19-24 are in condition for allowance.

For all of the reasons provided herein it is respectfully submitted that the outstanding rejection of claims 1-24 is overcome and claims 1-24 are in condition for allowance. Applicants' respectfully request the Examiner to issue a timely Notice of Allowance.

7 Collart Declaration Paragraph 8

CONCLUSION

In view of the above, Applicants submit that the pending claims are in condition for allowance, and prompt and favorable action is earnestly solicited. Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas F. Lebens at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,

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